

REMARKS/ARGUMENTS

DETAILED ACTION

Claims 1-28 are pending in this application.

Specification

The Examiner stated that the specification is objected to as failing to meet the preferred layout. The specification has been amended. The Examiner has removed his objections to the specification.

Claim Rejections – 35 USC § 103

The Examiner stated that claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hogan et al. (Patent No US 5,483,587), hereinafter Hogan, in view of Eran (Pub. No US 2005/0069114 A1, hereinafter “Eran”), in further view of Homeier (Patent No US 7,298,834), hereinafter Homeier.

As stated in MPEP § 2143.01, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Applicants respectfully submit, as will be detailed below, that Ogura or Shinohara do not, either expressly or inherently, teach or suggest many limitations recited in the amended independent claims

The Examiner states with regard to independent claims 1, 24, 25, 26, 27 and 28 that Hogan substantially teaches elements a-k, as numbered by the Examiner. However, Applicant disagrees. Particularly, with the element that states “forwarding, by the proxy server, the request to a conference management system, which comprises at least a data store and at least one interface servers receiving the request.” The portion quoted by the Examiner states in full “Therefore, in a step 1514, conference call controller 904 queries allocation database 1304 to determine resource availability. These resources can include conference ports 1116 and DSP ports 1112. In one embodiment, this is accomplished by conference call controller 904 sending a DATABASE SEARCH REQUEST message 1714 to allocation database 1304.” There is one

"allocation database", however there is no at least one interface server. The Examiner states in the Office Action that "data store = database, interface server receiving allocation database. How can one item represents two items according to the Examiner? It does not work. In the first place, in viewing FIG. 10, the allocation database is part of, inside the conference call controller, i.e. the proxy server. Therefore, this interpretation of the claim would never work because the conference call controller, i.e. the proxy server and the allocation database are one and the same, not two separate units. This is the heart of Applicant's invention. Yet, the Examiner has missed this by breaking down the claims in "gist" or "thrust" without looking at the claimed invention as a whole. *Distilling an invention down to the "gist" or "thrust" of an invention disregards the requirement of analyzing the subject matter "as a whole."* W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) (Emphasis added). This element is patentably distinct under 37 CFR 1.111(b) and the claims including this claim element are allowable over the prior art. Independent claims 1, 24, 25, 26, 27 and 28 are allowable via this one element of the claim.

The Examiner states that substantially independent claims 1, 24, 25, 26, 27 and 28 are taught by Hogan, Eran and Homeirer. Applicant disagrees. With respect to the following portion of independent claims 1, 24, 25, 26, 27 and 28, using claim 1 as an example, the Examiner stated in the previous Office Action that Eran teaches all of the following claim limitations in paragraph [0036], lines 1-5, now the Examiner states that Eran only teaches the final claim limitation.

Claim 1 states in the pertinent part:

assigning the new conference to one of a plurality of mixers, wherein the conference management system requests that the proxy server select one of the plurality of mixers to host the new conference call, which will be associated with a unique identifier generated for the new conference;

corresponding a unique mixer identifier to the selected mixer stored with the conference code and the conference identifier thereby associating the conference with the mixer;

providing the unique identifier to the one mixer and the VRU, wherein the mixer identifier uniquely identifies the one mixer to the VRU; and

placing the VRU and the one mixer in audio communication.

In the portion of Eran quoted by the Examiner, the disclosure states “[0036] *The mixer receives the enhanced streams from all of the selected participants and/or the signal from IVR and supplies each participant with an uncompressed mixed audio stream of the selected participants and/or the signal IVR. Mixer may supply more than one stream, each stream having a different mix.*” This time, the Examiner states that Eran teaches “placing the VRU and the one mixer in audio communication.” While, in the last Office Action, the Examiner stated the Eran taught all the above limitation, without the amendments. Thus, the Examiner stated that Eran taught “loading the data store with at least the conference code, the unique identifier for the new conference, and the mixer identifier.” ***This is quite a turn around, because now he is stating that Eran does not teach this element at all, Homeier does.***

The Examiner states that Homeier teaches the remaining elements in the following portion of the disclosure “Turning now to FIG. 2, an exemplary method 200 of initiating a conference within the conferencing system 100 is shown. Although the present method 200 describes initiating a conference using the conference participant 102, the conference control server 120, the CMM 130, and the EMM 140, it should be understood that the method 200 may alternatively be applied to any of the other devices within the conferencing system 100. In step 202, the conference control server 120 may receive a connection request from the conference participant 102 requesting a connection to a conference. In the present exemplary scenario, the conference participant 102 may be the first device to join the conference, and thus, the connection request may initiate the conference. The conference control server 120 may use identification information within the connection request (e.g., PIN, conference identification number, username, password, etc.) for authenticating the conference participant 102 and determining the conference where the conference participant 102 should connect. In step 204, ***the conference control server 120 may arbitrarily or selectively determine a central media mixer and an edge media mixer for the conference, which may be the CMM 130 and EMM 140, respectively, in the present embodiment.*** Alternatively, the conference control server 120 may ***select a single mixer (e.g., a central media mixer) for the conference.*** In such a scenario, the conference control server 120 may wait until the capacity of the single mixer is saturated before

selecting an additional mixer for connecting to the single mixer. In step 206, the conference control server 120 *may connect the conference participant 102 to the EMM 140 via a media path*. Exemplary messaging used during this step will be described in more detail shortly. In step 208, *the conference control server 120 may create a media path between the EMM 140 and the CMM 130*. Preferably, *the media path enables the EMM 140 and the CMM 130 to send and receive data signals within one another via a standard call-control protocol, such as SIP*. Additionally, the conference participant 102 may use the media path to send and receive data signals with future conference participants that connect to the CMM 130 and/or the EMM 140.”

Unfortunately for the Examiner, there are still elements missing. For example, “corresponding a unique mixer identifier to the selected mixer stored with the conference code and the conference identifier thereby associating the conference with the mixer” is not anywhere in the above-mentioned passage. This element is patentably distinct under 37 CFR 1.111(b) and the claims including this claim element are allowable over the prior art. Independent claims 1, 24, 25, 26, 27 and 28 are allowable via this one element of the claim.

Second, the element “providing the unique identifier to the one mixer and the VRU, wherein the mixer identifier uniquely identifies the one mixer to the VRU”, is nowhere to be found in the above passage. As such, the claim is allowable. This element is patentably distinct under 37 CFR 1.111(b) and the claims including this claim element are allowable over the prior art. Independent claims 1, 24, 25, 26, 27 and 28 are allowable via this one element of the claim.

As stated previously, this is not Applicant’s invention as claimed. There are five requirements for these claim elements 1) assigning the new conference to one of a plurality of mixers; 2) providing the unique identifier to the one mixer and the VRU; 3) providing a mixer identifier that uniquely identifies the one mixer to the VRU; 4) loading the data store with at least the conference code, the unique identifier for the new conference, and the mixer identifier; and 5) placing the VRU and the one mixer in audio communication. None of which has been met by the Examiner’s analysis. The Examiner has not done his job. He has piecemealed prior art that has no resemblance to Applicant’s invention and continues to reject Applicant’s claims in light of very strong arguments on Applicant’s part and inaccurate comparisons by the Examiner of Eran to Applicant’s invention. *Ascertaining the differences between the prior art and the*

claims at issue requires interpreting the claim language, and considering both the invention and the prior art references as a whole. See MPEP § 2111 - § 2116.01 for case law pertaining to claim interpretation. The Examiner is not looking at the claimed invention as a whole, but rather distilling the invention down to a gist or thrust of the invention and completely disregarding the “as a whole requirement.” See MPEP § 2111.

In addition, the Examiner is taking Official Notice of facts without supporting evidence. It would not be appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.

It is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697 (“[T]he Board cannot simply reach conclusions based on its own understanding or experience-or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.”). While the court explained that, “as an administrative tribunal the Board clearly has expertise in the subject matter over which it exercises jurisdiction,” it made clear that such “expertise may provide sufficient support for conclusions [only] as to peripheral issues.” *Id.* at 1385-86, 59 USPQ2d at 1697. As the court held in *Zurko*, an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support. *Id.* at 1385, 59 USPQ2d at 1697.

However, purely in the interest of expediting the prosecution of the instant invention, Applicant has amended claims 1, 24, 25, 26, 27 and 28 to approximately include the following limitations:

maintaining a list, by the proxy server, of each of a plurality of interface servers, wherein each of the plurality of interface servers function at least in part to support the queues that contain requests to be acted upon by a conferencing request, the proxy server further maintaining running counts of message requests pending or awaiting on each

of the plurality of interface servers and performing load balancing across each of the plurality of interface servers;

Support for such limitations can be found at least on pages 2-9 of the instant invention. Neither Hogan nor Eran teach or suggest such limitations. As such, Applicant believes that claim 1, 24, 25, 26, 27 and 28 as well as the that depend therefrom, are in condition for allowance and respectfully request they be passed to allowance. In light of the arguments set forth below, Applicant traverses each and every claim, depending from claims 1, 24, 25, 26, 27 and 28.

For at least the reasons above, Applicant believes the independent claims, as well as the claims that depend from them, are in condition for allowance and respectfully request they be passed to allowance.

Respectfully submitted,
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